



U.S. Department of Justice
Office of Information Policy
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Washington, DC 20530-0001

Telephone: (202) 514-3642

Patrick Eddington
Cato Institute
1000 Massachusetts Avenue, NW
Washington, DC 20001
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Re: Appeal No. DOJ-AP-2019-003748
Request No. 1429271
MWH:JNW

VIA: FOIAOnline

Dear Patrick Eddington:

This is to advise you that your administrative appeal from the action of the Federal Bureau of Investigation was received in this Office on April 9, 2019. Your appeal has been assigned number DOJ-AP-2019-003748. Please mention this number in any future correspondence with this Office regarding this appeal.

You assert that your appeal is entitled to expedited treatment pursuant to the second standard enumerated in the Department of Justice's regulations. Expedited treatment pursuant to the second standard will be granted where the requester shows that there is "[a]n urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information." 28 C.F.R. § 16.5(e)(1)(ii) (2018).

I have determined that you have not met your burden under the second standard because you have not shown an "urgency to inform the public" about an actual or alleged federal government activity. *Id.* at § 16.5(e)(1)(ii). In deciding whether you have demonstrated that there is an "urgency to inform the public" under 28 C.F.R. § 16.5(e)(1)(ii), I considered three factors: "(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity." *Al-Fayed v. CIA*, 254 F.3d 300, 310 (D.C. Cir. 2001). Although your request concerns a federal government activity, you have not established that the requested records are a matter of current exigency to the American public, nor that delaying a response would compromise a significant recognized interest. Instead, you only state that your appeal should be expedited because your "request involves an actual federal activity and [you are] a person primarily engaged in disseminating information to the public." In other words, you have not demonstrated a time-sensitive, urgent need to receive these historical records.

As a result of the denial, your appeal will be placed into chronological order with the other pending appeals and will be addressed in turn.

Exhibit D

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Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your request for expedited processing.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

4/11/2019

X 

Matthew Hurd, Associate Chief, for
Sean O'Neill, Chief, Administrative Appeals Staff
Signed by: MATTHEW HURD